

AMENDED IN ASSEMBLY AUGUST 26, 2013

AMENDED IN ASSEMBLY JUNE 17, 2013

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 220

Introduced by Senator Beall

February 11, 2013

An act to amend Sections 9353, ~~19144~~, 20636, 20636.1, 20677.4, 20683.2, 20691, 20692, 20693, 20731, 20737, 20891, 20909, 21010, 21011, 21033, 21052, 21060, 21070.5, 21070.6, 21070.7, 21092, 21150, ~~21202~~, 22760, ~~22772~~, 75005, and 75505 of, to add Section 20004 to, and to repeal and add Article 8 (commencing with Section 21220) to Chapter 12 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Beall. California Public Employees' Pension Reform Act of 2013: administration.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to specified public employees. Existing law also establishes the Judges' Retirement System and Judges' Retirement System II, which provide pension benefits to judges, as defined, and the Legislators' Retirement System, which provides pension benefits to specified elective officers of the state, other than judges, and to legislative statutory officers. Existing law requires that these systems be administered by the Board of Administration of PERS. Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA),

on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Existing law establishes the Public Employees' Medical and Hospital Care Act (PEMHCA) for the purpose of providing postemployment health care benefits to specified retirees.

This bill would require the Board of Administration of PERS to administer each of the retirement systems described above in conformance with PEPRA as if the provisions of the act were contained in the provisions governing those systems. The bill would provide that if the board determines that there is a conflict between the provisions of PEPRA and respective provisions of those systems, the provisions of PEPRA control. The bill would make various changes in PERL and in PEMHCA to conform with the requirements of PEPRA. ~~The bill would repeal and add provisions addressing employment after retirement to provide for conformance with the requirements of PEPRA, subject to specified exceptions including provisions accounting for the suspension and payment of the retirement allowance of an elective officer.~~ The bill *would* prescribe requirements for the calculation of the retirement allowance of members with service in different retirement systems, at least one of which is subject to PEPRA, with different minimum retirement ages, when the member retires before 52 years of age, as specified.

This bill would incorporate changes to Section 22760 of the Government Code that would become operative if both this bill and AB 410 are both chaptered and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9353 of the Government Code is amended
2 to read:
3 9353. This system shall be administered by the Board of
4 Administration of the Public Employees' Retirement System. The
5 board shall administer this system in accordance with the
6 provisions of the Public Employees' Retirement Law to the same
7 extent and with the same effect as if those provisions are contained
8 in the Legislators' Retirement Law, except for those provisions
9 which provide for the payment of an allowance or other benefit
10 and except for those provisions which conflict with any provision

or provisions of the Legislators' Retirement Law. To the extent applicable, the board shall also administer this system in conformance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to the same extent and with the same effect as if the provisions of the act are contained in the Legislators' Retirement Law. If the Board of Administration of the Public Employees' Retirement System determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and this chapter, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

~~SEC. 2. Section 19144 of the Government Code is amended to read:~~

~~19144. Subject to Article 8 (commencing with Section 21220) of Chapter 12 of Part 3, a person who has retired from state civil service may be employed temporarily in a civil service position at any time following retirement, provided that the position is either:~~

~~(a) In the class in which the person had permanent or probationary status or a career executive assignment appointment at the time of retirement.~~

~~(b) In another class to which the person could have been permanently transferred, reinstated, or demoted at the time of retirement.~~

~~SEC. 3.~~

~~SEC. 2.~~ Section 20004 is added to the Government Code, to read:

20004. (a) It is the intent of the Legislature, in enacting this section and amending this part, to comply with, and implement the provisions of, the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to ensure the continued ability of the board to invest the retirement fund and administer the system in conformity with its duties and responsibilities and to ensure that members are provided with the retirement and related benefits to which they are entitled pursuant to law.

(b) To achieve the purposes set forth in subdivision (a), the board shall have all powers reasonably necessary to invest the assets associated with, and to administer and implement the

provisions of, the California Public Employees' Pension Reform Act of 2013, to the extent and with the same effect as if the provisions of the act are contained in the Public Employees' Retirement Law. All laws governing the investment of the retirement fund, and the organization, procedures, and administrative duties and responsibilities of the board shall be applicable to the board in its administration of the California Public Employees' Pension Reform Act of 2013, to the extent these laws are not in conflict with, or are not inconsistent with, the act. If the board determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and the Public Employees' Retirement Law, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(c) Nothing in this section shall be construed to amend, supersede, limit, or extend the application of the provisions of the California Public Employees' Pension Reform Act of 2013.

~~SEC. 4.~~

SEC. 3. Section 20636 of the Government Code is amended to read:

20636. (a) "Compensation earnable" by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) "Payrate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. "Payrate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) "Payrate" shall include an amount deducted from a member's salary for any of the following:

(A) Participation in a deferred compensation plan.

(B) Payment for participation in a retirement plan that meets the requirements of Section 401(k) of Title 26 of the United States Code.

1 (C) Payment into a money purchase pension plan and trust that
2 meets the requirements of Section 401(a) of Title 26 of the United
3 States Code.

4 (D) Participation in a flexible benefits program.

5 (3) The computation for a leave without pay of a member shall
6 be based on the compensation earnable by him or her at the
7 beginning of the absence.

8 (4) The computation for time prior to entering state service shall
9 be based on the compensation earnable by him or her in the position
10 first held by him or her in state service.

11 (c) (1) Special compensation of a member includes a payment
12 received for special skills, knowledge, abilities, work assignment,
13 workdays or hours, or other work conditions.

14 (2) Special compensation shall be limited to that which is
15 received by a member pursuant to a labor policy or agreement or
16 as otherwise required by state or federal law, to similarly situated
17 members of a group or class of employment that is in addition to
18 payrate. If an individual is not part of a group or class, special
19 compensation shall be limited to that which the board determines
20 is received by similarly situated members in the closest related
21 group or class that is in addition to payrate, subject to the
22 limitations of paragraph (2) of subdivision (e).

23 (3) Special compensation shall be for services rendered during
24 normal working hours and, when reported to the board, the
25 employer shall identify the pay period in which the special
26 compensation was earned.

27 (4) Special compensation may include the full monetary value
28 of normal contributions paid to the board by the employer, on
29 behalf of the member and pursuant to Section 20691, if the
30 employer's labor policy or agreement specifically provides for the
31 inclusion of the normal contribution payment in compensation
32 earnable.

33 (5) The monetary value of a service or noncash advantage
34 furnished by the employer to the member, except as expressly and
35 specifically provided in this part, is not special compensation unless
36 regulations promulgated by the board specifically determine that
37 value to be "special compensation."

38 (6) The board shall promulgate regulations that delineate more
39 specifically and exclusively what constitutes "special
40 compensation" as used in this section. A uniform allowance, the

1 monetary value of employer-provided uniforms, holiday pay, and
2 premium pay for hours worked within the normally scheduled or
3 regular working hours that are in excess of the statutory maximum
4 workweek or work period applicable to the employee under Section
5 201 and following of Title 29 of the United States Code shall be
6 included as special compensation and appropriately defined in
7 those regulations.

8 (7) Special compensation does not include any of the following:

9 (A) Final settlement pay.

10 (B) Payments made for additional services rendered outside of
11 normal working hours, whether paid in lump sum or otherwise.

12 (C) Other payments the board has not affirmatively determined
13 to be special compensation.

14 (d) Notwithstanding any other provision of law, payrate and
15 special compensation schedules, ordinances, or similar documents
16 shall be public records available for public scrutiny.

17 (e) (1) As used in this part, “group or class of employment”
18 means a number of employees considered together because they
19 share similarities in job duties, work location, collective bargaining
20 unit, or other logical work-related grouping. One employee may
21 not be considered a group or class.

22 (2) Increases in compensation earnable granted to an employee
23 who is not in a group or class shall be limited during the final
24 compensation period applicable to the employees, as well as the
25 two years immediately preceding the final compensation period,
26 to the average increase in compensation earnable during the same
27 period reported by the employer for all employees who are in the
28 same membership classification, except as may otherwise be
29 determined pursuant to regulations adopted by the board that
30 establish reasonable standards for granting exceptions.

31 (f) As used in this part, “final settlement pay” means pay or
32 cash conversions of employee benefits that are in excess of
33 compensation earnable, that are granted or awarded to a member
34 in connection with, or in anticipation of, a separation from
35 employment. The board shall promulgate regulations that delineate
36 more specifically what constitutes final settlement pay.

37 (g) (1) Notwithstanding subdivision (a), “compensation
38 earnable” for state members means the average monthly
39 compensation, as determined by the board, upon the basis of the
40 average time put in by members in the same group or class of

1 employment and at the same rate of pay, and is composed of the
2 payrate and special compensation of the member. The computation
3 for an absence of a member shall be based on the compensation
4 earnable by him or her at the beginning of the absence and for time
5 prior to entering state service shall be based on the compensation
6 earnable by him or her in the position first held by him or her in
7 that state service.

8 (2) Notwithstanding subdivision (b), “payrate” for state members
9 means the average monthly remuneration paid in cash out of funds
10 paid by the employer to similarly situated members of the same
11 group or class of employment, in payment for the member’s
12 services or for time during which the member is excused from
13 work because of holidays, sick leave, vacation, compensating time
14 off, or leave of absence. “Payrate” for state members shall include:

15 (A) An amount deducted from a member’s salary for any of the
16 following:

17 (i) Participation in a deferred compensation plan established
18 pursuant to Chapter 4 (commencing with Section 19993) of Part
19 2.6.

20 (ii) Payment for participation in a retirement plan that meets
21 the requirements of Section 401(k) of Title 26 of the United States
22 Code.

23 (iii) Payment into a money purchase pension plan and trust that
24 meets the requirements of Section 401(a) of Title 26 of the United
25 States Code.

26 (iv) Participation in a flexible benefits program.

27 (B) A payment in cash by the member’s employer to one other
28 than an employee for the purpose of purchasing an annuity contract
29 for a member under an annuity plan that meets the requirements
30 of Section 403(b) of Title 26 of the United States Code.

31 (C) Employer “pick up” of member contributions that meets
32 the requirements of Section 414(h)(2) of Title 26 of the United
33 States Code.

34 (D) Disability or workers’ compensation payments to safety
35 members in accordance with Section 4800 of the Labor Code.

36 (E) Temporary industrial disability payments pursuant to Article
37 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6.

38 (F) Other payments the board may determine to be within
39 “payrate.”

(3) Notwithstanding subdivision (c), “special compensation” for state members shall mean all of the following:

(A) The monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry, and other advantages of any nature furnished to a member by his or her employer in payment for the member’s services.

(B) Compensation for performing normally required duties, such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out-of-class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, Peace Officer Standards and Training (POST) certificate pay, and split shift differential.

(C) Compensation for uniforms, except as provided in Section 20632.

(D) Other payments the board may determine to be within “special compensation.”

(4) “Payrate” and “special compensation” for state members do not include any of the following:

(A) The provision by the state employer of a medical or hospital service or care plan or insurance plan for its employees (other than the purchase of annuity contracts as described below in this subdivision), a contribution by the employer to meet the premium or charge for that plan, or a payment into a private fund to provide health and welfare benefits for employees.

(B) A payment by the state employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act.

(C) Amounts not available for payment of salaries and that are applied by the employer for the purchase of annuity contracts including those that meet the requirements of Section 403(b) of Title 26 of the United States Code.

(D) Benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6.

(E) Employer payments that are to be credited as employee contributions for benefits provided by this system, or employer payments that are to be credited to employee accounts in deferred compensation plans. The amounts deducted from a member’s wages for participation in a deferred compensation plan may not be considered to be “employer payments.”

1 (F) Payments for unused vacation, annual leave, personal leave,
2 sick leave, or compensating time off, whether paid in lump sum
3 or otherwise.

4 (G) Final settlement pay.

5 (H) Payments for overtime, including pay in lieu of vacation or
6 holiday.

7 (I) Compensation for additional services outside regular duties,
8 such as standby pay, callback pay, court duty, allowance for
9 automobiles, and bonuses for duties performed after the member's
10 regular work shift.

11 (J) Amounts not available for payment of salaries and that are
12 applied by the employer for any of the following:

13 (i) The purchase of a retirement plan that meets the requirements
14 of Section 401(k) of Title 26 of the United States Code.

15 (ii) Payment into a money purchase pension plan and trust that
16 meets the requirements of Section 401(a) of Title 26 of the United
17 States Code.

18 (K) Payments made by the employer to or on behalf of its
19 employees who have elected to be covered by a flexible benefits
20 program, where those payments reflect amounts that exceed the
21 employee's salary.

22 (L) Other payments the board may determine are not "payrate"
23 or "special compensation."

24 (5) If the provisions of this subdivision, including the board's
25 determinations pursuant to subparagraph (F) of paragraph (2) and
26 subparagraph (D) of paragraph (3), are in conflict with the
27 provisions of a memorandum of understanding reached pursuant
28 to Section 3517.5 or 3560, the memorandum of understanding
29 shall be controlling without further legislative action, except that
30 if the provisions of a memorandum of understanding require the
31 expenditure of funds, those provisions may not become effective
32 unless approved by the Legislature in the annual Budget Act. No
33 memorandum of understanding reached pursuant to Section 3517.5
34 or 3560 may exclude from the definition of either "payrate" or
35 "special compensation" a member's base salary payments or
36 payments for time during which the member is excused from work
37 because of holidays, sick leave, vacation, compensating time off,
38 or leave of absence. If items of compensation earnable are included
39 by memorandum of understanding as "payrate" or "special
40 compensation" for retirement purposes for represented and higher

1 education employees pursuant to this paragraph, the Department
2 of Human Resources or the Trustees of the California State
3 University shall obtain approval from the board for that inclusion.

4 (6) (A) Subparagraph (B) of paragraph (3) prescribes that
5 compensation earnable includes compensation for performing
6 normally required duties, such as holiday pay, bonuses (for duties
7 performed on regular work shift), educational incentive pay,
8 maintenance and noncash payments, out-of-class pay,
9 marksmanship pay, hazard pay, motorcycle pay, paramedic pay,
10 emergency medical technician pay, POST certificate pay, and split
11 shift differential; and includes compensation for uniforms, except
12 as provided in Section 20632; and subparagraph (I) of paragraph
13 (4) excludes from compensation earnable compensation for
14 additional services outside regular duties, such as standby pay,
15 callback pay, court duty, allowance for automobile, and bonuses
16 for duties performed after regular work shift.

17 (B) Notwithstanding subparagraph (A), the Department of
18 Human Resources shall determine which payments and allowances
19 that are paid by the state employer shall be considered
20 compensation for retirement purposes for an employee who either
21 is excluded from the definition of state employee in Section 3513,
22 or is a nonelected officer or employee of the executive branch of
23 government who is not a member of the civil service.

24 (C) Notwithstanding subparagraph (A), the Trustees of the
25 California State University shall determine which payments and
26 allowances that are paid by the trustees shall be considered
27 compensation for retirement purposes for a managerial employee,
28 as defined in Section 3562, or supervisory employee as defined in
29 Section 3580.3.

30 (h) This section shall not apply to a new member, as defined in
31 Section 7522.04.

32 ~~SEC. 5.~~

33 *SEC. 4.* Section 20636.1 of the Government Code is amended
34 to read:

35 20636.1. (a) Notwithstanding Section 20636, and Section
36 45102 of the Education Code, “compensation earnable” by a school
37 member means the payrate and special compensation of the
38 member, as defined by subdivisions (b) and (c), and as limited by
39 Section 21752.5.

(b) (1) “Payrate” means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For purposes of this part, for classified members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. “Payrate,” for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(A) “Payrate” shall include an amount deducted from a member’s salary for any of the following:

(i) Participation in a deferred compensation plan.

(ii) Payment for participation in a retirement plan that meets the requirements of Section 401(k) or 403(b) of Title 26 of the United States Code.

(iii) Payment into a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code.

(iv) Participation in a flexible benefits program.

(B) For the purposes of this section, “classified members” shall mean members who retain membership under this system while employed with a school employer in positions not subject to coverage under the Defined Benefit Program under the State Teachers’ Retirement System.

(C) For the purposes of this section, and Sections 20962 and 20966, “certificated members” shall mean members who retain membership under this system while employed in positions subject to coverage under the Defined Benefit Program under the State Teachers’ Retirement System.

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

1 (c) (1) Special compensation of a school member includes any
2 payment received for special skills, knowledge, abilities, work
3 assignment, workdays or hours, or other work conditions.

4 (2) Special compensation shall be limited to that which is
5 received by a member pursuant to a labor policy or agreement or
6 as otherwise required by state or federal law, to similarly situated
7 members of a group or class of employment that is in addition to
8 payrate. If an individual is not part of a group or class, special
9 compensation shall be limited to that which the board determines
10 is received by similarly situated members in the closest related
11 group or class that is in addition to payrate, subject to the
12 limitations of paragraph (2) of subdivision (e).

13 (3) Special compensation shall be for services rendered during
14 normal working hours and, when reported to the board, the
15 employer shall identify the pay period in which the special
16 compensation was earned.

17 (4) Special compensation may include the full monetary value
18 of normal contributions paid to the board by the employer, on
19 behalf of the member and pursuant to Section 20691, provided
20 that the employer's labor policy or agreement specifically provides
21 for the inclusion of the normal contribution payment in
22 compensation earnable.

23 (5) The monetary value of any service or noncash advantage
24 furnished by the employer to the member, except as expressly and
25 specifically provided in this part, shall not be special compensation
26 unless regulations promulgated by the board specifically determine
27 that value to be "special compensation."

28 (6) The board shall promulgate regulations that delineate more
29 specifically and exclusively what constitutes "special
30 compensation" as used in this section. A uniform allowance, the
31 monetary value of employer-provided uniforms, holiday pay, and
32 premium pay for hours worked within the normally scheduled or
33 regular working hours that are in excess of the statutory maximum
34 workweek or work period applicable to the employee under Section
35 201 and following of Title 29 of the United States Code shall be
36 included as special compensation and appropriately defined in
37 those regulations.

38 (7) Special compensation does not include any of the following:

39 (A) Final settlement pay.

1 (B) Payments made for additional services rendered outside of
2 normal working hours, whether paid in lump sum or otherwise.

3 (C) Any other payments the board has not affirmatively
4 determined to be special compensation.

5 (d) Notwithstanding any other provision of law, payrate and
6 special compensation schedules, ordinances, or similar documents
7 shall be public records available for public scrutiny.

8 (e) (1) As used in this part, “group or class of employment”
9 means a number of employees considered together because they
10 share similarities in job duties, work location, collective bargaining
11 unit, or other logical work-related grouping. Under no
12 circumstances shall one employee be considered a group or class.

13 (2) Increases in compensation earnable granted to any employee
14 who is not in a group or class shall be limited during the final
15 compensation period applicable to the employees, as well as the
16 two years immediately preceding the final compensation period,
17 to the average increase in compensation earnable during the same
18 period reported by the employer for all employees who are in the
19 same membership classification, except as may otherwise be
20 determined pursuant to regulations adopted by the board that
21 establish reasonable standards for granting exceptions.

22 (f) As used in this part, “final settlement pay” means any pay
23 or cash conversions of employee benefits that are in excess of
24 compensation earnable, that are granted or awarded to a member
25 in connection with or in anticipation of a separation from
26 employment. The board shall promulgate regulations that delineate
27 more specifically what constitutes final settlement pay.

28 (g) This section shall not apply to a new member, as defined in
29 Section 7522.04.

30 ~~SEC. 6.~~

31 *SEC. 5.* Section 20677.4 of the Government Code is amended
32 to read:

33 20677.4. (a) (1) The normal rate of contribution for a state
34 miscellaneous or state industrial member whose service is not
35 included in the federal system shall be 6 percent of the
36 compensation in excess of three hundred seventeen dollars (\$317)
37 per month paid to that member for service rendered on or after
38 July 1, 1976.

39 (2) The normal rate of contribution for a state miscellaneous or
40 state industrial member, who has elected to be subject to Section

1 21353.5 and whose service is not included in the federal system,
2 shall be 6 percent of the member's compensation.

3 (3) The normal rate of contribution as established under this
4 subdivision for a member whose service is included in the federal
5 system, and whose service retirement allowance is reduced under
6 Section 21354.1, because of that inclusion, shall be reduced by
7 one-third as applied to compensation not exceeding four hundred
8 dollars (\$400) per month for service after the date of execution of
9 the agreement including service in the federal system and prior to
10 termination of the agreement with respect to the coverage group
11 to which he or she belongs.

12 (b) The normal rate of contribution for a state miscellaneous or
13 state industrial member whose service has been included in the
14 federal system shall be 5 percent of compensation in excess of five
15 hundred thirteen dollars (\$513) per month paid that member for
16 service rendered on or after July 1, 1976.

17 (c) The normal rate of contribution for a state miscellaneous or
18 state industrial member who is subject to Section 21076, 21076.5,
19 or 21077 shall be determined in the manner described in Section
20 20683.2.

21 (d) A member who elected to become subject to Section 21353
22 solely for service rendered on or after the effective date of the
23 election, as authorized by subdivision (c) of Section 21070 during
24 the period between November 1, 1988, and October 31, 1989, is
25 not required to make the contributions specified in Section 21073.

26 (e) A member who elects to become subject to Section 21354.1,
27 as applicable, shall contribute at the rate specified in paragraph
28 (1) of subdivision (a) or paragraph (1) of subdivision (b), as
29 determined by the member's status with the federal system, and
30 the rate shall be applied from the first of the month following the
31 date of the election. A member who makes the election shall also
32 contribute for service prior to the date the contribution rate was
33 applied, in the manner specified in Section 21073 or 21073.1, as
34 applicable.

35 (f) If the provisions of this section are in conflict with the
36 provisions of a memorandum of understanding reached pursuant
37 to Section 3517.5, the memorandum of understanding shall be
38 controlling without further legislative action, except that if the
39 provisions of a memorandum of understanding require the
40 expenditure of funds, the provisions shall not become effective

1 unless and until approved by the Legislature in the annual Budget
2 Act.

3 (g) The Director of Human Resources may establish the normal
4 rate of contribution for a state employee who is excepted from the
5 definition of “state employee” in subdivision (c) of Section 3513,
6 and an officer or employee of the executive branch of state
7 government who is not a member of the civil service. The normal
8 rate of contribution shall be the same for all members identified
9 in this subdivision. The contribution rate shall be effective the
10 beginning of the pay period indicated by the Director of Human
11 Resources but shall be no earlier than the beginning of the pay
12 period following the date the board receives notification.

13 ~~SEC. 7.~~

14 *SEC. 6.* Section 20683.2 of the Government Code is amended
15 to read:

16 20683.2. Equal sharing of normal costs between the state
17 employer and public employees shall be the standard. It shall be
18 the standard that employees pay at least 50 percent of normal costs
19 and that employers not pay any of the required employee
20 contribution. Equal sharing of normal costs is currently the standard
21 for most state employees.

22 (a) Notwithstanding any other section of this code, or other
23 provision of law in conflict with this section, except as provided
24 in Section 7522.30, normal contribution rates for defined benefit
25 plans for state employees of public employers as defined in
26 paragraph (1) of subdivision (i) of Section 7522.04, excluding the
27 California State University, shall be determined as follows:

28 (1) Normal cost contribution rates shall increase as follows:

29 (A) The contribution rate for state peace officer/firefighter
30 members in State Bargaining Unit 6 and for state safety members
31 in State Bargaining Units 1, 3, 4, 7, 9, 10, 11, 14, 15, 17, 20, and
32 21 will increase by 1.0 percentage point on July 1, 2013, and will
33 increase by an additional 1.0 percentage point on July 1, 2014.

34 (B) The contribution rate for state peace officer/firefighter
35 members in State Bargaining Units 7 and 8 will increase by 1.5
36 percentage points on July 1, 2013, and will increase by an
37 additional 1.5 percentage points on July 1, 2014.

38 (C) The contribution rate for state industrial members in State
39 Bargaining Units 1, 3, 4, 6, 9, 10, 11, 14, 15, 17, and 20 will
40 increase by 1.0 percentage point on July 1, 2013.

(D) The contribution rate for state miscellaneous and industrial members that have elected the Second Tier benefit formula will increase by 1.5 percentage points annually starting July 1, 2013, until the contribution rate is equal to at least 50 percent of normal costs rounded up to the nearest one-fourth of 1 percent. The final annual increase in the contribution rate shall be adjusted to less than 1.5 percent as appropriate.

(E) The contribution rate for state safety members in State Bargaining Unit 2 and state miscellaneous members in State Bargaining Unit 5 will increase by 1.0 percentage point on July 1, 2013.

(F) The contribution rate for patrol members in State Bargaining Unit 5 will increase by 1.5 percentage points on July 1, 2013.

(2) Consistent with paragraph (1), the normal rate of contribution shall be adjusted accordingly for related state employees who are exempted from the definition of “state employee,” or officers and employees of the executive, legislative, or judicial branch of state government who are not members of the civil service.

(b) Calculation of employee contribution rate increases pursuant to this section shall be based upon compensation calculations established pursuant to Sections 20671 to 20694, inclusive.

(c) In addition to the actuarially required contribution, savings realized by the state employer as a result of the employee contribution rate increases required by this section shall be allocated to any unfunded liability, subject to appropriation in the annual Budget Act.

~~SEC. 8.~~

SEC. 7. Section 20691 of the Government Code is amended to read:

20691. (a) (1) Except as provided in subdivision (b), notwithstanding any other law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. If an individual is not part of a group or class, the payment shall be limited to the amount that the board determines is payable to similarly situated members in the closest related group or class, subject to the limitations of paragraph (2) of subdivision (e) of Section 20636.

1 The payments shall be reported simply as normal contributions
2 and shall be credited to member accounts.

3 (2) Nothing in this subdivision shall be construed to limit the
4 authority of a contracting agency or school employer to periodically
5 increase, reduce, or eliminate the payment by the contracting
6 agency or school employer of all or a portion of the normal
7 contributions required to be paid by members, as authorized by
8 this section.

9 (b) Notwithstanding subdivision (a), employers shall not pay a
10 portion of the normal contributions for members who are subject
11 to subdivision (c) of Section 7522.30, except where authorized
12 pursuant to subdivision (f) of Section 7522.30.

13 ~~SEC. 9.~~

14 *SEC. 8.* Section 20692 of the Government Code is amended
15 to read:

16 20692. (a) Where a contracting agency employer or a school
17 employer has elected to pay all or a portion of the normal
18 contributions of members of a group or class of employment
19 pursuant to Section 20691, the employer may, pursuant to a labor
20 policy or agreement, stop paying those contributions during the
21 final compensation period applicable to the members and, instead,
22 increase the payrate of the members by an amount equal to the
23 normal contributions paid by the employer on behalf of the
24 employees in the pay period immediately prior to the final
25 compensation period or increase the payrate of the members by
26 an amount established by a labor policy or agreement in existence
27 and in effect on June 30, 1993. That amount shall not exceed the
28 amount of the normal member contributions that are required to
29 be paid by the members.

30 (b) This section shall not apply to any contracting agency or to
31 any school employer unless and until the contracting agency or
32 the school employer elects to be subject to this section by
33 amendment to its contract made in the manner prescribed for
34 approval of contracts, except an election among the employees is
35 not required. In the case of contracts made after July 1, 1994, the
36 section shall not apply unless incorporated by express provision
37 in the contract. However, no school employer may act pursuant to
38 this section unless and until the board approves a request for the
39 amendment of the contract of a school employer to authorize
40 termination of the payment. A school employer shall not submit

1 a request for a contract amendment unless there is on file a request
2 to terminate that payment from the county superintendent of
3 schools office and each school district, community college district,
4 and other school entity within the jurisdiction of that school
5 employer.

6 (c) Before adopting this provision, the governing body of a
7 contracting agency or school employer shall, with timely public
8 notice, place the consideration of this section on the agendas of
9 two consecutive public meetings of the governing body, at which
10 time, full disclosure shall be made of the nature of the benefit, the
11 additional employer contributions, and the funding therefor. Only
12 after the second of these public meetings may the governing body
13 adopt this section. The employer shall notify the board of the
14 employer's compliance with this subdivision at the time of the
15 governing body's application to adopt this section.

16 (d) Persons hired after the effective date of an employer's
17 contract amendment to include this section shall be informed by
18 the employer of how this benefit relates to their total compensation
19 and benefit package.

20 (e) The additional employer contributions required under this
21 section shall be computed as a level percentage of member
22 compensation. The additional contribution rate required at the time
23 this section is added to a contract shall not be less than the sum of
24 (1) the actuarial normal cost, plus (2) in the case of a contract
25 amendment, the additional contribution required to amortize the
26 increase in accrued liability attributable to the benefit elected under
27 this section over the unfunded actuarial liability period currently
28 in the agency's contract, commencing from the date this section
29 becomes effective in the agency's contract.

30 (f) For the purposes of this section, all contributions, liabilities,
31 actuarial interest rates, and other valuation factors necessary to
32 calculate the employer's contribution shall be determined on the
33 basis of actuarial assumptions and methods which, in combination,
34 provide the board's best estimate of anticipated experience under
35 the system. The board has the exclusive power and duty to make
36 these determinations.

37 (g) Within 30 days of notification from the board to the
38 contracting agency or school employer of the additional employer
39 contributions required pursuant to this section, the contracting
40 agency or school employer, or a recognized employee organization,

1 or both, may file with the board a request for a review of the
2 determination of the calculation of the additional employer
3 contributions. The board shall promulgate regulations governing
4 the conduct of the review, that shall include the means by which
5 an employer or recognized employee organization may submit
6 independent actuarial evidence regarding the additional
7 contribution required by this section. The board shall make the
8 final determination on the additional employer contributions needed
9 to fund this contract amendment.

10 (h) This section shall not apply to a new member as defined in
11 Section 7522.04.

12 ~~SEC. 10.~~

13 *SEC. 9.* Section 20693 of the Government Code is amended
14 to read:

15 20693. (a) Except as provided in subdivision (b),
16 notwithstanding any other law, the state or the Regents of the
17 University of California may pay all or a portion of the normal
18 contributions required to be paid by a state member. The payments
19 shall be reported as employer-paid normal contributions and shall
20 be credited to member accounts. Nothing in this subdivision shall
21 be construed to limit the authority of the state to periodically
22 increase, reduce, or eliminate the payment by the state of all or a
23 portion of the normal contributions required to be paid by a state
24 member, as authorized by this section.

25 This section shall be subject to any applicable
26 collective-bargaining laws.

27 (b) Notwithstanding subdivision (a), employers shall not pay a
28 portion of the normal contributions for members who are subject
29 to subdivision (c) of Section 7522.30, except where authorized
30 pursuant to subdivision (f) of Section 7522.30.

31 ~~SEC. 11.~~

32 *SEC. 10.* Section 20731 of the Government Code is amended
33 to read:

34 20731. (a) Notwithstanding any other provision of this part,
35 a member who is credited with less than the years of service
36 specified in Article 1 (commencing with Section 21060) of Chapter
37 12 who enters employment as a member of a public retirement
38 system supported, in whole or in part, by state funds, including
39 the University of California Retirement System, or as a member
40 of a county retirement system, within six months of leaving state

1 service, shall have the right to elect to leave accumulated
2 contributions on deposit in the retirement fund. Failure to make
3 an election to withdraw accumulated contributions shall be deemed
4 an election to leave accumulated contributions on deposit in the
5 retirement fund. This section shall also apply to a member who is
6 subject to Section 21076 or 21076.5.

7 (b) (1) An election to allow accumulated contributions to remain
8 in the retirement fund may be revoked by the member at any time,
9 except any of the following:

10 (A) While the member is employed in state service in a position
11 in which the member is not excluded from membership with respect
12 to that service.

13 (B) While the member is in service as a member of a public
14 retirement system supported, in whole or in part, by state funds,
15 including the University of California Retirement System.

16 (C) While the member is in service, entered within six months
17 after discontinuing state service, as a member of a county
18 retirement system.

19 (2) All accumulated contributions in a member's account up to
20 the time of revocation shall be distributed in accordance with an
21 election pursuant to Section 20735.

22 (3) A member who is permanently separated from all service
23 covered by the system, who is not subject to paragraph (1), and
24 who attains 70 years of age shall be provided with an election to
25 withdraw contributions or, if vested, an election to either apply
26 for service retirement or to withdraw contributions. Failure to apply
27 for service retirement or to make an election to withdraw
28 contributions within 90 days shall be deemed an election to
29 withdraw contributions. If the person fails to either apply for
30 service retirement or elect to withdraw contributions, or cannot,
31 with reasonable diligence, be located, the accumulated
32 contributions shall be distributed in accordance with Section 21500.

33 (c) A member whose membership continues under this section
34 is subject to the same age and disability requirements as apply to
35 other members for service or for disability retirement. After the
36 qualification of the member for retirement by reason of age, which
37 shall be the lowest age applicable to any membership category in
38 which the member has credited service, or disability, the member
39 shall be entitled to receive a retirement allowance based upon the
40 amount of the member's accumulated contributions and service

standing to the member's credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets the minimum service requirements. If a basic death benefit becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.

~~SEC. 12.~~

SEC. 11. Section 20737 of the Government Code is amended to read:

20737. The account of a member who elects to be subject to Section 21076 or 21076.5 shall be paid current year interest through the effective date of that election for service rendered as a state miscellaneous or state industrial member. Interest subsequent to the effective date of that election shall accrue at a rate determined by the board. The member shall not receive his or her accumulated contributions plus interest until the time of retirement or upon request after permanent separation from state service. Interest shall be paid through the day prior to retirement or through the date on which the claim is filed with the Controller. This section does not apply to a member who elects to be subject to Section 21077.

~~SEC. 13.~~

SEC. 12. Section 20891 of the Government Code is amended to read:

20891. Section 20066 and subdivisions (a) and (b) of Section 20068 shall not apply to a state miscellaneous or state industrial member subject to Section 21076, 21076.5, or 21077 who becomes a patrol member, a state safety member, or a state peace officer/firefighter member as a result of an amendment to this part defining those members, or is reclassified as a state peace

1 officer/firefighter member pursuant to ~~Sections~~ *Section* 20395 or
2 20398, unless the member elects to: (a) deposit in the retirement
3 fund an amount equal to any accumulated contributions that he or
4 she withdrew pursuant to Section 20737, plus an amount equal to
5 the interest which would have been credited to his or her account,
6 to the date of completion of payments, had those contributions not
7 been withdrawn; and (b) deposit in the retirement fund the amount
8 that he or she would have contributed had he or she not been
9 subject to subdivision (c) of Section 20677, plus an amount equal
10 to the interest, to the date of completion of payments, which would
11 have been credited to those contributions had he or she been subject
12 to subdivision (a) or (b) of Section 20677.

13 ~~SEC. 14.~~

14 *SEC. 13.* Section 20909 of the Government Code is amended
15 to read:

16 20909. (a) A member who has at least five years of credited
17 state service, may elect, by written notice filed with the board, to
18 make contributions pursuant to this section and receive not less
19 than one year, nor more than five years, in one-year increments,
20 of additional retirement service credit in the retirement system.

21 (b) A member may elect to receive this additional retirement
22 service credit at any time prior to retirement by making the
23 contributions as specified in Sections 21050 and 21052. A member
24 may not elect additional retirement service credit under this section
25 more than once.

26 (c) For purposes of this section, “additional retirement service
27 credit” means time that does not qualify as public service, military
28 service, leave of absence, or any other time recognized for service
29 credit by the retirement system.

30 (d) Additional retirement service credit elected pursuant to this
31 section may not be counted to meet the minimum qualifications
32 for service or disability retirement or for health care benefits, or
33 any other benefits based upon years of service credited to the
34 member.

35 (e) This section only applies to the following members:

36 (1) A member while he or she is employed in state service at
37 the time of the additional retirement service credit election.

38 (2) A member of the system defined in Section 20324.

39 (f) For purposes of this section, “state service” means service
40 as defined in Section 20069.

1 (g) This section shall apply only to an application to purchase
2 additional retirement credit that was received by the system prior
3 to January 1, 2013, that is subsequently approved by the system.

4 ~~SEC. 15.~~

5 *SEC. 14.* Section 21010 of the Government Code is amended
6 to read:

7 21010. Unless otherwise provided in this article, a member
8 electing to receive service credit for time during which he or she
9 was absent from state service shall contribute in a lump sum or by
10 installments over that period and subject to such minimum
11 payments as may be prescribed by regulations of the board, an
12 amount equal to (a) the contributions he or she would have made
13 to this system for the period for which current service credit is
14 granted, assuming that the rate of contribution under his or her
15 employer's formula at the rate age applicable to him or her at the
16 beginning of his or her first subsequent period of service in
17 membership and his or her compensation earnable on that date had
18 applied to him or her during the period for which credit is granted,
19 plus (b) those added contributions as may be specially required
20 under this article as a condition for crediting a particular absence,
21 plus (c) the interest that would have accrued to those contributions
22 if they had been on deposit at the beginning date of his or her first
23 subsequent period of service in membership, from that date until
24 the date of completion of payments. The beginning date of the first
25 subsequent period of service for purposes of computation of
26 contributions and interest shall be deemed to be the end of the
27 period of service credited for a member who has no subsequent
28 return to service. For a member who is subject to Section 21076
29 or 21076.5, and Section 21077, the service and contribution rate
30 to be used for purposes of computation shall be deemed to be the
31 service and contribution rate that would have been used had the
32 member not been subject to Section 21076 or 21076.5, and Section
33 21077.

34 Service shall be credited as current or prior service, or both, as
35 it would be credited if the member had been in state service during
36 his or her absence. All contributions of a member under this article
37 shall be considered to be and shall be administered as normal
38 contributions.

1 ~~SEC. 16.~~

2 *SEC. 15.* Section 21011 of the Government Code is amended
3 to read:

4 21011. Notwithstanding Section 21010, for a member electing
5 to receive service credit for time during which he or she was absent
6 from state service who is subject to Section 21076 or 21076.5, and
7 Section 21077, the contribution rate to be used for the purposes
8 of computation shall be deemed to be the contribution rate that
9 would have been used had the member not been subject to Section
10 21076 or 21076.5, and Section 21077.

11 ~~SEC. 17.~~

12 *SEC. 16.* Section 21033 of the Government Code is amended
13 to read:

14 21033. A member electing to receive credit for public service
15 shall contribute in a lump sum or by installment payments over
16 that period and subject to minimum payments as may be prescribed
17 by regulations of the board an amount equal to (a) the contributions
18 he or she would have made to this system for the period for which
19 current service credit is granted, assuming that the rate of
20 contribution under his or her employer's formula at the rate age
21 applicable to him or her at the beginning of his or her first
22 subsequent period of service in membership and his or her
23 compensation earnable on that date had applied to him or her
24 during the period for which credit is granted, plus (b) the added
25 contribution that may be specially required under this article as a
26 condition for crediting particular public service, plus (c) the interest
27 which would have accrued to those contributions if they had been
28 deposited at the beginning date of his or her first subsequent period
29 of service in membership, from that date until the date of
30 completion of payments, and (d) if he or she elects to contribute
31 in other than one sum, interest on the unpaid balance of the amount
32 payable to the retirement fund, beginning on the date of the election
33 to receive credit. The beginning date of the first subsequent period
34 of service for purposes of computation of contribution and interest
35 shall be deemed to be the end of the period of service credited for
36 a member who has no subsequent return to service. For a member
37 who is subject to Section 21076 or 21076.5, and Section 21077,
38 the service and contribution rate to be used for purposes of
39 computation shall be deemed to be the service and contribution

1 rate that would have been used had the member not been subject
2 to Section 21076 or 21076.5, and Section 21077.

3 ~~SEC. 18.~~

4 *SEC. 17.* Section 21052 of the Government Code is amended
5 to read:

6 21052. A member or retired former employee who elects to
7 receive service credit subject to this section shall contribute, in
8 accordance with Section 21050, an amount equal to the increase
9 in employer liability, using the payrate and other factors affecting
10 liability on the date of the request for costing of the service credit.
11 The methodology for calculating the amount of the contribution
12 shall be determined by the chief actuary and approved by the board.
13 A member or retired former employee electing to receive service
14 credit for service subject to Section 21076, 21076.5, or 21077 shall
15 pay the contributions as described.

16 ~~SEC. 19.~~

17 *SEC. 18.* Section 21060 of the Government Code is amended
18 to read:

19 21060. (a) A member shall be retired for service upon his or
20 her written application to the board if he or she has attained age
21 50 *years of age* and is credited with five years of state service,
22 except as provided in Sections 7522.20, 21061, 21062, and 21074.

23 (b) For purposes of this section, “state service” includes service
24 to the state for which the member, pursuant to Section 20281.5,
25 did not receive credit.

26 (c) For a member who has accrued service credit subject to the
27 benefit formula in Section 7522.20 and who has also accrued
28 service credit, within this retirement system, subject to a benefit
29 formula with a minimum retirement age earlier than 52 years of
30 age, the member shall receive an actuarially reduced equivalent
31 benefit, upon retirement, for service subject to Section 7522.20,
32 if the member retires before 52 years of age but at, or after, the
33 minimum age of retirement permitted for other service within this
34 retirement system and the member is credited with at least five
35 years of service.

36 ~~SEC. 20.~~

37 *SEC. 19.* Section 21070.5 of the Government Code is amended
38 to read:

39 21070.5. (a) Notwithstanding any other provision of this
40 article, a person who, on or after January 1, 2000, becomes a state

1 miscellaneous or state industrial member of the system because
2 the person (1) is first employed by the state, (2) returns to
3 employment with the state from a break in service of more than
4 90 days, or (3) returns to employment with the state after ceasing
5 to be a member pursuant to Section 20340 or 21075, shall be
6 subject to the benefits provided by Section 21354.1, unless the
7 person elects within 180 days of membership as a state
8 miscellaneous or state industrial member to be subject to the
9 Second Tier benefits provided for in Section 21076 or 21076.5,
10 as applicable. This section shall only apply to state miscellaneous
11 and state industrial members who are (1) excluded from the
12 definition of state employee in subdivision (c) of Section 3513,
13 (2) employed by the executive branch of government and are not
14 members of the civil service, or (3) included in the definition of
15 state employee in subdivision (c) of Section 3513.

16 (b) The effective date of the election shall be the first day of the
17 month following the date the election is received by the system
18 and shall be applicable to state service rendered on and after that
19 date. Any election filed with the board pursuant to this section
20 shall also be signed by the spouse of the member.

21 (c) A member who makes an election authorized by this section
22 shall not be precluded from making a subsequent election pursuant
23 to Section 21073.7 to be subject to the benefits provided by Section
24 21354.1.

25 (d) Operation and application of this section are subject to the
26 limitations set forth in Section 21251.13.

27 (e) For a member subject to Section 20281.5, the 180-day
28 election period shall not commence until the first day of the first
29 pay period commencing 24 months after becoming a member of
30 the system.

31 ~~SEC. 21.~~

32 *SEC. 20.* Section 21070.6 of the Government Code is amended
33 to read:

34 21070.6. (a) A member who is subject to Section 21076,
35 21076.5, or 21077 may be credited at no cost with all previous
36 state miscellaneous or state industrial service eligible to be credited
37 under Second Tier benefits. A member who is entitled to service
38 credit under this section shall apply for and identify time periods
39 for that service to the board.

1 (b) Operation and application of this section are subject to the
2 limitations set forth in Section 21251.13.

3 (c) This section shall only apply to service credit associated
4 with employment periods prior to July 1, 2013.

5 ~~SEC. 22.~~

6 *SEC. 21.* Section 21070.7 of the Government Code is amended
7 to read:

8 21070.7. Notwithstanding any other provision of this part,
9 Sections 21076, 21076.5, and 21077 shall not apply to service with
10 the California National Guard or service as a National Guard
11 member regardless of any prior membership status or previous
12 election made.

13 ~~SEC. 23.~~

14 *SEC. 22.* Section 21092 of the Government Code is amended
15 to read:

16 21092. (a) The normal rate of contribution for a local
17 miscellaneous member subject to this article shall be 2 percent of
18 compensation paid the member. A contracting agency may pay all
19 or a portion of the member's normal contributions, pursuant to
20 Section 20691.

21 (b) Notwithstanding subdivision (a), a new member, as defined
22 in Section 7522.04, shall have a contribution rate of at least 50
23 percent of the normal cost, pursuant to Section 7522.30.

24 ~~SEC. 24.~~

25 *SEC. 23.* Section 21150 of the Government Code is amended
26 to read:

27 21150. (a) A member incapacitated for the performance of
28 duty shall be retired for disability pursuant to this chapter if he or
29 she is credited with five years of state service, regardless of age,
30 unless the person has elected to become subject to Section 21076,
31 21076.5, or 21077.

32 (b) A member subject to Section 21076, 21076.5, or 21077 who
33 becomes incapacitated for the performance of duty shall be retired
34 for disability pursuant to this chapter if he or she is credited with
35 10 years of state service, regardless of age, except that a member
36 may retire for disability if he or she had five years of state service
37 prior to January 1, 1985.

38 (c) For purposes of this section, "state service" includes service
39 to the state for which the member, pursuant to Section 20281.5,
40 did not receive credit.

1 ~~SEC. 25. Section 21202 of the Government Code is amended to~~
2 ~~read:~~

3 ~~21202. A person employed in violation of Section 21221 shall~~
4 ~~be reinstated to membership in the category in which, and on the~~
5 ~~date on which, the unlawful employment occurred.~~

6 ~~SEC. 26. Article 8 (commencing with Section 21220) of~~
7 ~~Chapter 12 of Part 3 of Division 5 of Title 2 of the Government~~
8 ~~Code is repealed.~~

9 ~~SEC. 27. Article 8 (commencing with Section 21220) is added~~
10 ~~to Chapter 12 of Part 3 of Division 5 of Title 2 of the Government~~
11 ~~Code, to read:~~

12
13 ~~Article 8. Employment After Retirement~~
14

15 ~~21220. This article shall be deemed to comply with Article 4~~
16 ~~of Chapter 21 of Division 7 of Title 1, known as the California~~
17 ~~Public Employees' Pension Reform Act of 2013, and shall be~~
18 ~~considered to further its purposes, including, but not limited to,~~
19 ~~the purposes of Sections 7522.56 and 7522.57.~~

20 ~~21221. (a) This section shall apply to any person who is~~
21 ~~receiving a pension benefit from this system.~~

22 ~~(b) A retired person shall not serve, be employed by, or be~~
23 ~~employed through a contract directly by, a public employer in this~~
24 ~~system if the retiree receives the benefit without reinstatement~~
25 ~~from retirement, except as permitted by this article.~~

26 ~~(c) A person who retires from a public employer in this system~~
27 ~~may serve without reinstatement from retirement or loss or~~
28 ~~interruption of benefits provided by this system upon appointment~~
29 ~~by the appointing power or the governing body of a public~~
30 ~~employer either during an emergency to prevent stoppage of public~~
31 ~~business or because the retired person has skills needed to perform~~
32 ~~work of limited duration.~~

33 ~~(d) (1) Appointments of the person authorized under this section~~
34 ~~shall not exceed a total for all employers in this system of 960~~
35 ~~hours in a fiscal year. The monthly rate of pay for the employment~~
36 ~~shall not be less than the minimum, nor exceed the maximum, paid~~
37 ~~by the employer to other employees performing comparable duties;~~
38 ~~divided by 173.333 to equal an hourly rate. A retired person~~
39 ~~appointed pursuant to this section shall not receive any benefit,~~
40 ~~incentive, compensation in lieu of benefits, or other form of~~

1 compensation in addition to the hourly pay rate. A retired person
2 whose employment without reinstatement is authorized by this
3 section shall acquire no service credit or retirement rights under
4 this section with respect to the employment unless he or she
5 reinstates from retirement.

6 (2) ~~Appointments of the person authorized under this section~~
7 ~~as a member of the academic staff of the California State University~~
8 ~~shall not exceed a total for all employers in this system of 960~~
9 ~~hours in a fiscal year or 50 percent of the hours the member worked~~
10 ~~during the last fiscal year of service prior to retirement, whichever~~
11 ~~is less. The monthly rate of pay for the employment shall not be~~
12 ~~less than the minimum, nor exceed the maximum, paid by the~~
13 ~~employer to other employees performing comparable duties;~~
14 ~~divided by 173.333 to equal an hourly rate. A retired person~~
15 ~~appointed pursuant to this section shall not receive any benefit,~~
16 ~~incentive, compensation in lieu of benefits, or other form of~~
17 ~~compensation in addition to the hourly pay rate. A retired person~~
18 ~~whose employment without reinstatement is authorized by this~~
19 ~~section shall acquire no service credit or retirement rights under~~
20 ~~this section with respect to the employment unless he or she~~
21 ~~reinstates from retirement.~~

22 (e) (1) Notwithstanding subdivision (e), any retired person shall
23 not be eligible to serve or be employed by a public employer in
24 this system if, during the 12-month period prior to an appointment
25 described in this section, the retired person received any
26 unemployment insurance compensation arising out of prior
27 employment subject to this article with a public employer. A retiree
28 shall certify in writing to the employer upon accepting an offer of
29 employment that he or she is in compliance with this requirement.

30 (2) ~~A retired person who accepts an appointment after receiving~~
31 ~~unemployment insurance compensation as described in this~~
32 ~~subdivision shall terminate that employment on the last day of the~~
33 ~~current pay period and shall not be eligible for reappointment~~
34 ~~subject to this section for a period of 12 months following the last~~
35 ~~day of employment.~~

36 21222. (a) A retired person shall not be eligible to be employed
37 pursuant to this article for a period of 180 days following the date
38 of retirement unless he or she meets one of the following
39 conditions:

1 ~~(1) The public employer certifies the nature of the employment~~
2 ~~and that the appointment is necessary to fill a critically needed~~
3 ~~position before 180 days has passed and the appointment has been~~
4 ~~approved by the governing body of the employer in a public~~
5 ~~meeting. The appointment may not be placed on a consent calendar.~~

6 ~~(2) The state employer certifies the nature of the employment~~
7 ~~and that the appointment is necessary to fill a critically needed~~
8 ~~state employment position before 180 days has passed and the~~
9 ~~appointment has been approved by the Department of Human~~
10 ~~Resources. The department may establish a process to delegate~~
11 ~~appointing authority to individual state agencies, but shall audit~~
12 ~~the process to determine if abuses of the system occur. If necessary,~~
13 ~~the department may assume an agency's appointing authority for~~
14 ~~retired workers and may charge the department an appropriate~~
15 ~~amount for administering that authority.~~

16 ~~(3) The retiree is eligible to participate in the Faculty Early~~
17 ~~Retirement Program pursuant to a collective bargaining agreement~~
18 ~~with the California State University that existed prior to January~~
19 ~~1, 2013, or has been included in subsequent agreements.~~

20 ~~(4) The retiree is a public safety officer or firefighter hired to~~
21 ~~perform a function or functions regularly performed by a public~~
22 ~~safety officer or firefighter.~~

23 ~~(b) A retired person who accepted a retirement incentive upon~~
24 ~~retirement shall not be eligible to be employed pursuant to this~~
25 ~~section for a period of 180 days following the date of retirement~~
26 ~~and subdivision (a) shall not apply.~~

27 ~~21223. A retired person who has not attained the normal~~
28 ~~retirement age shall have a bona fide separation in service to the~~
29 ~~extent required by the Internal Revenue Code, and the regulations~~
30 ~~promulgated thereunder, before working after retirement pursuant~~
31 ~~to this article. The board shall establish, by regulation, the criteria~~
32 ~~under which a bona fide separation is satisfied.~~

33 ~~21224. (a) A person employed in violation of this article shall~~
34 ~~be reinstated to membership in the category in which, and on the~~
35 ~~date on which, the unlawful employment occurred.~~

36 ~~(b) Upon reinstatement, the retired member employed in~~
37 ~~violation of this article shall:~~

38 ~~(1) Reimburse this system for any retirement allowance received~~
39 ~~during the period or periods of employment that are in violation~~
40 ~~of law.~~

1 ~~(2) Pay to this system an amount of money equal to the~~
2 ~~employee contributions that would otherwise have been paid during~~
3 ~~the period or periods of unlawful employment, plus interest~~
4 ~~thereon.~~

5 ~~(3) Contribute toward reimbursement of this system for~~
6 ~~administrative expenses incurred in responding to this situation,~~
7 ~~to the extent the member is determined by the executive officer to~~
8 ~~be at fault.~~

9 ~~(e) Any public employer in this system that employs a retired~~
10 ~~member in violation of this article shall, upon reinstatement of the~~
11 ~~retired member.~~

12 ~~(1) Pay to this system an amount of money equal to employer~~
13 ~~contributions that would otherwise have been paid for the period~~
14 ~~or periods of time that the member is employed in violation of this~~
15 ~~article, plus interest thereon.~~

16 ~~(2) Contribute toward reimbursement of this system for~~
17 ~~administrative expenses incurred in responding to this situation,~~
18 ~~to the extent the employer is determined by the executive officer~~
19 ~~of this system to be at fault.~~

20 ~~(d) This section shall not apply to violations under subdivision~~
21 ~~(e) of Section 21221.~~

22 21225. ~~(a) This section shall apply to any retired person who~~
23 ~~is receiving a pension benefit from a public retirement system and~~
24 ~~is first appointed on or after January 1, 2013, to a salaried position~~
25 ~~on a state board or commission.~~

26 ~~(b) A person who is retired from a public retirement system~~
27 ~~may serve without reinstatement from retirement or loss or~~
28 ~~interruption of benefits provided that appointment is to a part-time~~
29 ~~state board or commission. A retired person whose employment~~
30 ~~without reinstatement is authorized by this subdivision shall acquire~~
31 ~~no benefits, service credit, or retirement rights with respect to the~~
32 ~~employment. Unless otherwise defined in statute, for the purpose~~
33 ~~of this section, a part-time appointment shall mean an appointment~~
34 ~~with a salary of no more than sixty thousand dollars (\$60,000)~~
35 ~~annually, which shall be increased in any fiscal year in which a~~
36 ~~general salary increase is provided for state employees. The amount~~
37 ~~of the increase provided by this section shall be comparable to,~~
38 ~~but shall not exceed, the percentage of the general salary increases~~
39 ~~provided for state employees during that fiscal year.~~

~~(c) A person who is retired from the Public Employees' Retirement System shall not serve on a full-time basis on a state board or commission without reinstatement unless that person serves as a nonsalaried member of the board or commission and receives only per diem authorized to all members of the board or commission. A person who serves as a nonsalaried member of a board or commission shall not earn any service credit or benefits in the Public Employees' Retirement System or make contributions with respect to the service performed.~~

~~(d) A person retired from a public retirement system other than the Public Employees' Retirement System who is appointed on a full-time basis to a state board or commission shall choose one of the following options:~~

~~(1) The person may serve as a nonsalaried member of the board or commission and continue to receive his or her retirement allowance, in addition to any per diem authorized to all members of the board or commission. The person shall not earn service credit or benefits in the Public Employees' Retirement System and shall not make contributions with respect to the service performed.~~

~~(2) (A) The person may suspend his or her retirement allowance or allowances and instate as a new member of the Public Employees' Retirement System for the service performed on the board or commission. The pensionable compensation earned pursuant to this paragraph shall not be eligible for reciprocity with any other retirement system or plan.~~

~~(B) Upon retiring for service after serving on the board or commission, the appointee shall be entitled to reinstatement of any suspended benefits, including employer provided retiree health benefits, that he or she was entitled to at the time of being appointed to the board or commission.~~

~~(e) Notwithstanding subdivisions (c) and (d), a person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment to a full-time state board pursuant to Section 5075 of the Penal Code.~~

~~21230. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:~~

~~(a) (1) As a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615,~~

1 and he or she returns to work in the converted position, and the
2 employer is a trial court.

3 ~~(2) As a retiree who takes office as a judge of a court of record~~
4 ~~pursuant to Article VI of the California Constitution or a retiree~~
5 ~~of the Judges' Retirement System I or the Judges' Retirement~~
6 ~~System II who is appointed to serve as a retired judge.~~

7 ~~(b) (1) As an elective officer.~~

8 ~~(2) If a retired person serves without reinstatement from~~
9 ~~retirement in an elective office and part or all of his or her~~
10 ~~retirement allowance is based on service in that elective office,~~
11 ~~the portion of the allowance based on service in that elective office~~
12 ~~shall be suspended during incumbency in that elective office. The~~
13 ~~entire retirement allowance shall be paid for time on and after the~~
14 ~~person vacates the elective office in the monthly amount payable~~
15 ~~had the allowance not been suspended. The governing body of~~
16 ~~every employer other than the state shall cause immediate notice~~
17 ~~to be given to this system of the election of any retired person to~~
18 ~~an office of the employer.~~

19 ~~SEC. 28.~~

20 *SEC. 24.* Section 22760 of the Government Code is amended
21 to read:

22 22760. "Annuitant" means:

23 (a) A person, other than a National Guard member defined in
24 Section 20380.5, who has retired within 120 days of separation
25 from employment and who receives a retirement allowance under
26 any state or University of California retirement system to which
27 the state was a contributing party.

28 (b) A surviving family member receiving an allowance in place
29 of an annuitant who has retired as provided in subdivision (a), or
30 as the survivor of a deceased employee under Section 21541,
31 21546, 21547, or 21547.7, or similar provisions of any other state
32 retirement system.

33 (c) A person who has retired within 120 days of separation from
34 employment with a contracting agency as defined in Section 22768
35 and who receives a retirement allowance from the retirement
36 system provided by the employer, or a surviving family member
37 who receives the retirement allowance in place of the deceased.

38 (d) A judge who receives the benefits provided by subdivision
39 (e) of Section 75522.

1 (e) A person who was a state member for 30 years or more and
2 who, at the time of retirement, was a local member employed by
3 a contracting agency.

4 (f) A Member of the Legislature or an elective officer of the
5 state whose office is provided by the California Constitution, who
6 has at least eight years of credited service, and who meets the
7 following conditions:

8 (1) Permanently separates from state service on or after January
9 1, 1988, and not more than 10 years before or 10 years after his
10 or her minimum age for service retirement, or is an inactive
11 member of the Legislators' Retirement System pursuant to Section
12 9355.2.

13 (2) Receives a retirement allowance under a state retirement
14 system supported in whole or in part by state funds other than the
15 University of California Retirement System.

16 (g) An exempt employee who meets all of the following
17 conditions:

18 (1) Has at least 10 years of credited state service that includes
19 at least 2 years of credited service while an exempt employee.

20 (2) Permanently separates from state service on or after January
21 1, 1988, and not more than 10 years before or 10 years after his
22 or her minimum age for service retirement.

23 (3) Receives a retirement allowance under a state retirement
24 system supported in whole or in part by state funds other than the
25 University of California Retirement System.

26 (h) A person receiving a survivor allowance pursuant to Article
27 3 (commencing with Section 21570) of Chapter 14 of Part 3
28 provided that he or she was eligible to enroll in a health benefit
29 plan on the date of the member's death, on whose account the
30 survivor allowance is payable.

31 (i) (1) A family member of a deceased retired member of the
32 State Teachers' Retirement Plan, if the deceased member meets
33 the following conditions:

34 (A) Retired within 120 days of separation from employment.

35 (B) Retired before the member's school employer elected to
36 contract for health benefit coverage under this part.

37 (C) Prior to his or her death, received a retirement allowance
38 that did not provide for a survivor allowance to family members.

39 (2) The family member shall elect coverage as an annuitant
40 within one calendar year from the date that the deceased member's

1 school employer elected to contract for health benefit coverage
2 under this part.

3 (j) A person who reinstates benefits pursuant to subparagraph
4 (ii) of paragraph (2) of subdivision (d) of Section 7522.57.

5 *SEC. 24.5. Section 22760 of the Government Code is amended*
6 *to read:*

7 22760. "Annuitant" means:

8 (a) A person, other than a National Guard member defined in
9 Section 20380.5, who has retired within 120 days of separation
10 from employment and who receives a retirement allowance under
11 any state or University of California retirement system to which
12 the state was a contributing party.

13 (b) A surviving family member receiving an allowance in place
14 of an annuitant who has retired as provided in subdivision (a), or
15 as the survivor of a deceased employee under Section 21541,
16 21546, 21547, or 21547.7, or similar provisions of any other state
17 retirement system.

18 (c) A person who has retired within 120 days of separation from
19 employment with a contracting agency as defined in Section 22768
20 *or, if applicable, consistent with the provisions of subdivision (b)*
21 *of Section 22893*, and who receives a retirement allowance from
22 the retirement system provided by ~~the~~ *that* employer, or a surviving
23 family member who receives the retirement allowance in place of
24 the deceased.

25 (d) A judge who receives the benefits provided by subdivision
26 (e) of Section 75522.

27 (e) A person who was a state member for 30 years or more and
28 who, at the time of retirement, was a local member employed by
29 a contracting agency.

30 (f) A Member of the Legislature or an elective officer of the
31 state whose office is provided by the California Constitution, who
32 has at least eight years of credited service, and who meets the
33 following conditions:

34 (1) Permanently separates from state service on or after January
35 1, 1988, and not more than 10 years before or 10 years after his
36 or her minimum age for service retirement, or is an inactive
37 member of the Legislators' Retirement System pursuant to Section
38 9355.2.

(2) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(g) An exempt employee who meets all of the following conditions:

(1) Has at least 10 years of credited state service that includes at least 2 years of credited service while an exempt employee.

(2) Permanently separates from state service on or after January 1, 1988, and not more than 10 years before or 10 years after his or her minimum age for service retirement.

(3) Receives a retirement allowance under a state retirement system supported in whole or in part by state funds other than the University of California Retirement System.

(h) A person receiving a survivor allowance pursuant to Article 3 (commencing with Section 21570) of Chapter 14 of Part 3 provided that he or she was eligible to enroll in a health benefit plan on the date of the member's death, on whose account the survivor allowance is payable.

(i) (1) A family member of a deceased retired member of the State Teachers' Retirement Plan, if the deceased member meets the following conditions:

(A) Retired within 120 days of separation from employment.

(B) Retired before the member's school employer elected to contract for health benefit coverage under this part.

(C) Prior to his or her death, received a retirement allowance that did not provide for a survivor allowance to family members.

(2) The family member shall elect coverage as an annuitant within one calendar year from the date that the deceased member's school employer elected to contract for health benefit coverage under this part.

(j) *A person who reinstates benefits pursuant to subparagraph (ii) of paragraph (2) of subdivision (d) of Section 7522.57.*

~~SEC. 29. Section 22772 of the Government Code is amended to read:~~

~~22772. (a) "Employee" means:~~

~~(1) An officer or employee of the state or of any agency, department, authority, or instrumentality of the state, including the University of California;~~

~~(2) An employee who is employed by a contracting agency and participates in a publicly funded retirement system provided by~~

1 the contracting agency, or an officer or official of a contracting
2 agency:

3 (3) ~~A teaching associate, lecturer, coach, or interpreter employed~~
4 ~~by the California State University who is appointed to work in an~~
5 ~~academic year classification for at least six weighted teaching units~~
6 ~~for one semester, or for at least six weighted teaching units for two~~
7 ~~or more consecutive quarter terms. This paragraph does not apply~~
8 ~~to a state member employed by the California State University,~~
9 ~~unless provided for in a memorandum of understanding reached~~
10 ~~pursuant to Chapter 12 (commencing with Section 3560) of~~
11 ~~Division 4 of Title 1 or authorized by the Trustees of the California~~
12 ~~State University for employees excluded from collective~~
13 ~~bargaining.~~

14 (4) ~~All employees in job classes specified in subdivision (a) of~~
15 ~~Section 14876.~~

16 (b) ~~Except as otherwise provided by this part, “employee” does~~
17 ~~not include any of the following:~~

18 (1) ~~A person employed on an intermittent, irregular, or less than~~
19 ~~half-time basis, or an employee similarly situated.~~

20 (2) ~~A National Guard member described in Section 20380.5.~~
21 ~~SEC. 30.~~

22 SEC. 25. Section 75005 of the Government Code is amended
23 to read:

24 75005. Notwithstanding any other provision of law, this chapter
25 shall be administered and governed by the Board of Administration
26 of the Public Employees’ Retirement System in accordance with
27 the Public Employees’ Retirement Law to the same extent and
28 with the same effect as if those provisions are contained in the
29 Judges’ Retirement Law, except for those provisions which provide
30 for the payment of an allowance or other benefit and except for
31 those provisions which conflict with any provision of the Judges’
32 Retirement Law. To the extent applicable, the Board of
33 Administration of the Public Employees’ Retirement System shall
34 also administer this chapter in conformance with the California
35 Public Employees’ Pension Reform Act of 2013 (Article 4
36 (commencing with Section 7522) of Chapter 21 of Division 7 of
37 Title 1) to the same extent and with the same effect as if the
38 provisions of the act are contained in the Judges’ Retirement Law.
39 If the Board of Administration of the Public Employees’
40 Retirement System determines that there is a conflict between the

1 provisions of the California Public Employees' Pension Reform
2 Act of 2013 and this chapter, the provisions of the California Public
3 Employees' Pension Reform Act of 2013 shall control. "State
4 Controller" or "Controller" as used in this chapter, or any other
5 provision of law relating to the chapter, shall be construed to refer
6 to and mean the "Board of Administration of the Public Employees'
7 Retirement System"; however, the Controller shall continue to
8 perform the duties prescribed in Sections 75092, 75097, 75101,
9 and 75102.

10 All payments from the Judges' Retirement Fund shall be made
11 upon warrants drawn by the Controller upon demands by the Board
12 of Administration of the Public Employees' Retirement System.

13 ~~SEC. 31.~~

14 *SEC. 26.* Section 75505 of the Government Code is amended
15 to read:

16 75505. (a) This chapter shall be administered and governed
17 pursuant to the Public Employees' Retirement Law to the same
18 extent and with the same effect as if those provisions are contained
19 in this chapter, except for those provisions that provide for the
20 payment of an allowance or other benefit and except for those
21 provisions that conflict with any provision of this chapter. To the
22 extent applicable, the Board of Administration of the Public
23 Employees' Retirement System shall administer this chapter in
24 conformance with the California Public Employees' Pension
25 Reform Act of 2013 (Article 4 (commencing with Section 7522)
26 of Chapter 21 of Division 7 of Title 1) to the same extent and with
27 the same effect as if the provisions of the act are contained in the
28 Judges' Retirement System II Law. If the Board of Administration
29 of the Public Employees' Retirement System determines that there
30 is a conflict between the provisions of the California Public
31 Employees' Pension Reform Act of 2013 and this chapter, the
32 provisions of the California Public Employees' Pension Reform
33 Act of 2013 shall control.

34 (b) All payments from the Judges' Retirement System II Fund
35 shall be made upon warrants drawn by the Controller upon
36 demands by the Board of Administration of the Public Employees'
37 Retirement System.

38 *SEC. 27. Section 24.5 of this bill incorporates amendments to*
39 *Section 22760 of the Government Code proposed by both this bill*
40 *and Assembly Bill 410. It shall only become operative if (1) both*

1 *bills are enacted and become effective on or before January 1,*
2 *2014, (2) each bill amends Section 22760 of the Government Code,*
3 *and (3) this bill is enacted after Assembly Bill 410, in which case*
4 *Section 24 of this bill shall not become operative.*

O